

SUCCESSION EXAMINATION CHECKLISTS

I. Sale by Heirs or Legatees

- a. Affidavit of Death, Domicile & Heirship? If no, STOP.
 - i. Date of Death?
 - ii. Domicile at death?
 1. Same parish where suit filed? If no, STOP.
 - iii. Testate or intestate? If not provided, STOP.
 - iv. Marital status/history? If not provided, STOP.
 - v. Children?
 1. If yes or no, proceed.
 2. If not stated, STOP.
 3. Any predeceased?
 - a. If no, proceed.
 - b. If yes, are their children identified?
 - i. If no, STOP.
 - ii. If yes, proceed.
 4. Any post-deceased?
 - a. If no, proceed.
 - b. If yes, review that succession.
 5. Statement that decedent had no other children born to or adopted by him/her other than those listed?
 6. Statement that descendants are/are not age 24 or older and are/are not permanently incapable of caring for property or person because of physical infirmity or mental incapacity?
 - vi. If no children,
 1. Survived by parents?
 - a. If yes or no, proceed.
 - b. If not stated, STOP
 2. Survived by siblings?
 - a. If yes or no, proceed.
 - b. If not stated, STOP
 - c. Any predeceased?
 - i. If no, proceed.
 - ii. If yes, are their children identified?
 1. If no, STOP.
 2. If yes, proceed.
 - d. Any post-deceased?
 - i. If no, proceed.
 - ii. If yes, review that succession.
 - e. Statement that decedent had no other siblings?
 - vii. Signed by 2 affiants with personal knowledge?
 - b. If testate, petition to probate will?

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- i. Was the petition filed within 5 years of the succession being opened? If no, STOP.
- ii. Is the will valid?
 1. If olographic, does it meet all of the following? If no, STOP.
 - a. Entirely in testator's handwriting
 - b. Dated
 - c. Signed at end
 2. If notarial, does it meet all of the following? If no, STOP.
 - a. Dated
 - b. Testator's name signed on each page and at the end
 - c. Contain the following declaration signed by two competent witnesses and notary: "In our presence the testator has declared or signified that this instrument is his testament and has signed it at the end and on each other separate page, and in the presence of the testator and each other we have hereunto subscribed our names this ____ day of _____, _____."
- iii. Is there signed probate order?
 1. If no, STOP.
 2. If yes and notarial will, proceed.
 3. If yes and olographic will, was it proved by testimony or affidavit of two credible witnesses?
 - a. If yes, proceed.
 - b. If no, STOP.
- c. Descriptive list – does it contain all of the following? If no, STOP.
 - i. Is the property listed?
 - ii. Does it provide the fair market value of the property at the date of the decedent's death?
 - iii. Is it sworn to and subscribed by a petitioner?
- d. Petition for possession – does it meet all of the following? If no, STOP.
 - i. All heirs or general/universal legatees, and succession representative if under administration, appear as petitioners and accept succession?
 - ii. Succession relatively free of debt if no administration?
 - iii. Sworn verification signed by at least one petitioner?
- e. Judgment of possession – does it meet all of the following? If no, STOP.
 - i. All heirs or legatees recognized and sent into possession?
 - ii. Surviving spouse recognized and sent into possession of undivided $\frac{1}{2}$ of community property with usufruct over other $\frac{1}{2}$, if applicable?
 - iii. Full, correct legal description of property provided?
- f. Certified copy of JOP filed in the conveyance records of parish where property located?

II. Sale by Succession Representative (Ordinary Administration)

- a. Affidavit of Death, Domicile & Heirship? If no, STOP.
 - i. Date of Death?
 - ii. Domicile at death?
 1. Same parish where suit filed? If no, STOP.
 - iii. Testate or intestate? If not provided, STOP.
 - iv. Marital status/history? If not provided, STOP.
 - v. Children?
 1. If yes or no, proceed.
 2. If not stated, STOP.
 3. Any predeceased?
 - a. If no, proceed.
 - b. If yes, are their children identified?
 - i. If no, STOP.
 - ii. If yes, proceed.
 4. Any post-deceased?
 - a. If no, proceed.
 - b. If yes, review that succession.
 5. Statement that decedent had no other children born to or adopted by him/her other than those listed?
 6. Statement that descendants are/are not age 24 or older and are/are not permanently incapable of caring for property or person because of physical infirmity or mental incapacity?
 - vi. If no children,
 1. Survived by parents?
 - a. If yes or no, proceed.
 - b. If not stated, STOP
 2. Survived by siblings?
 - a. If yes or no, proceed.
 - b. If not stated, STOP
 - c. Any predeceased?
 - i. If no, proceed.
 - ii. If yes, are their children identified?
 1. If no, STOP.
 2. If yes, proceed.
 - d. Any post-deceased?
 - i. If no, proceed.
 - ii. If yes, review that succession.
 - e. Statement that decedent had no other siblings?
 - vii. Signed by 2 affiants with personal knowledge?
 - b. If testate, petition to probate will?
 - i. Was the petition filed within 5 years of the succession being opened? If no, STOP.
 - ii. Is the will valid?

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1. If olographic, does it meet all of the following? If no, STOP.
 - a. Entirely in testator's handwriting
 - b. Dated
 - c. Signed at end
2. If notarial, does it meet all of the following? If no, STOP.
 - a. Dated
 - b. Testator's name signed on each page and at the end
 - c. Contain the following declaration signed by two competent witnesses and notary: "In our presence the testator has declared or signified that this instrument is his testament and has signed it at the end and on each other separate page, and in the presence of the testator and each other we have hereunto subscribed our names this _____ day of _____, _____."
- iii. Is there signed probate order?
 1. If no, STOP.
 2. If yes and notarial will, proceed.
 3. If yes and olographic will, was it proved by testimony or affidavit of two credible witnesses?
 - a. If yes, proceed.
 - b. If no, STOP.
- c. Petition for Appointment as Executor or Administrator? If no, STOP.
 - i. If testate, was the person appointed named executor in the will?
 1. If yes, proceed.
 2. If no, is there evidence that the person named in the will was dead, disqualified or declined?
 - a. If yes, proceed.
 - b. If no, STOP.
 - ii. If intestate, was the administrator appointed 10+ days after the decedent's death and where no notice of application for appointment had been filed?
 1. If yes, proceed.
 2. If no, was a hearing held?
 - a. If yes and appointment order is final, proceed.
 - b. If no, STOP.
 - iii. Is the representative a surviving spouse, heir, legatee, legal representative of an heir or legatee, creditor of the deceased or estate or co-owner of immovable property with the deceased? If no, STOP.
 - iv. Was the representative appointed as a provisional administrator? If yes, STOP.
 - v. Is there a signed order appointing the executor or administrator? If no, STOP.
 - vi. Did the representative furnish security/bond?

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1. If yes, proceed.
2. If no and testate, did will require security?
 - a. If no, proceed.
 - b. If yes, STOP.
3. If no and intestate, STOP
- vii. Did the representative file an oath? If no, STOP.
- viii. Were letters of administration or letters testamentary issued? If no, STOP.
- d. Descriptive list – does it contain all of the following? If no, STOP.
 - i. Is the property listed?
 - ii. Does it provide the fair market value of the property at the date of the decedent's death?
 - iii. Is it sworn to and subscribed by a petitioner?
- e. Petition for Private Sale filed? If no, STOP.
 - i. Does it include all of the following? If no, STOP.
 1. Full legal description of the property
 2. Price and conditions
 - a. Sufficient consideration? If donation, quitclaim or sale for less than FMV, STOP.
 - b. Third party purchaser identified? If self-dealing, STOP.
 3. Reasons for sale – pay debts and legacies or for “any other purpose”
 4. Copy of purchase agreement executed less than 30 days prior and subject to court approval
 - ii. Proof of publication that meets all of the following? If no, STOP.
 1. Ads run twice?
 - a. If no, is this a small succession (gross value of estate < \$125,000)?
 - i. If yes, once at least 11 days before order?
 1. If yes, proceed.
 2. If no, STOP.
 - ii. If no, STOP.
 - b. If yes, at least 28 days and 8 days before order?
 - i. If yes, proceed.
 - ii. If no, STOP.
 2. In parish where succession filed and in parish where property located if different
 3. In official newspaper and auxiliary journal, if required
 - iii. Certificate of no opposition from Clerk?
 1. If yes, proceed.
 2. If no, hearing held?
 - a. If yes, review and proceed.
 - b. If no, STOP.

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- iv. Signed order authorizing sale and fixing price and conditions? If no, STOP.
- f. Certified copies of letters of administration/letters testamentary and order authorizing sale recorded with sale/deed? If no, STOP.
- g. Is the actual sales price lower than the authorized sales price? If yes, STOP.

III. Sale by Succession Representative (Independent Administration)

- a. Affidavit of Death, Domicile & Heirship? If no, STOP.
 - i. Date of Death?
 - ii. Domicile at death?
 - 1. Same parish where suit filed? If no, STOP.
 - iii. Testate or intestate? If not provided, STOP.
 - iv. Marital status/history? If not provided, STOP.
 - v. Children?
 - 1. If yes or no, proceed.
 - 2. If not stated, STOP.
 - 3. Any predeceased?
 - a. If no, proceed.
 - b. If yes, are their children identified?
 - i. If no, STOP.
 - ii. If yes, proceed.
 - 4. Any post-deceased?
 - a. If no, proceed.
 - b. If yes, review that succession.
 - 5. Statement that decedent had no other children born to or adopted by him/her other than those listed?
 - 6. Statement that descendants are/are not age 24 or older and are/are not permanently incapable of caring for property or person because of physical infirmity or mental incapacity?
 - vi. If no children,
 - 1. Survived by parents?
 - a. If yes or no, proceed.
 - b. If not stated, STOP
 - 2. Survived by siblings?
 - a. If yes or no, proceed.
 - b. If not stated, STOP
 - c. Any predeceased?
 - i. If no, proceed.
 - ii. If yes, are their children identified?
 - 1. If no, STOP.
 - 2. If yes, proceed.
 - d. Any post-deceased?
 - i. If no, proceed.

- ii. If yes, review that succession.
- e. Statement that decedent had no other siblings?
- vii. Signed by 2 affiants with personal knowledge?
- b. If testate, petition to probate will?
 - i. Was the petition filed within 5 years of the succession being opened? If no, STOP.
 - ii. Is the will valid?
 - 1. If olographic, does it meet all of the following? If no, STOP.
 - a. Entirely in testator's handwriting
 - b. Dated
 - c. Signed at end
 - 2. If notarial, does it meet all of the following? If no, STOP.
 - a. Dated
 - b. Testator's name signed on each page and at the end
 - c. Contain the following declaration signed by two competent witnesses and notary: "In our presence the testator has declared or signified that this instrument is his testament and has signed it at the end and on each other separate page, and in the presence of the testator and each other we have hereunto subscribed our names this _____ day of _____, _____."
 - iii. Is there signed probate order?
 - 1. If no, STOP.
 - 2. If yes and notarial will, proceed.
 - 3. If yes and olographic will, was it proved by testimony or affidavit of two credible witnesses?
 - a. If yes, proceed.
 - b. If no, STOP.
- c. Petition for Appointment as Independent Executor or Administrator? If no, STOP.
 - i. If testate:
 - 1. Does the will prohibit independent administration? If yes, STOP.
 - 2. Does the will provide for independent administration?
 - a. If yes, proceed.
 - b. If no, is there written consent from all general/universal legatees, including usufructuaries if any?
 - i. If yes, proceed.
 - ii. If no, STOP.
 - 3. Was the person appointed named executor in the will?
 - a. If yes, proceed.

- b. If no, is there evidence that the person named in the will was dead, disqualified or declined, or did the will fail to designate an executor?
 - i. If yes, proceed.
 - ii. If no, STOP.
- ii. If intestate:
 1. Is there written consent from all of the heirs, including usufructuaries if any? If no, STOP.
 2. If intestate, was the administrator appointed 10+ days after the decedent's death and where no notice of application for appointment had been filed?
 - a. If yes, proceed.
 - b. If no, was a hearing held?
 - i. If yes and appointment order is final, proceed.
 - ii. If no, STOP.
 3. Is the representative a surviving spouse, heir, legatee, legal representative of an heir or legatee, creditor of the deceased or estate or co-owner of immovable property with the deceased? If no, STOP.
 4. Was the representative appointed as a provisional administrator? If yes, STOP.
- iii. Is there a signed order appointing the independent executor or independent administrator? If no, STOP.
- iv. Did the representative file an oath? If no, STOP.
- v. Were letters of independent administration or independent letters testamentary issued? If no, STOP.
- d. Descriptive list – does it contain all of the following? If no, STOP.
 - i. Is the property listed?
 - ii. Does it provide the fair market value of the property at the date of the decedent's death?
 - iii. Is it sworn to and subscribed by a petitioner/representative?
- e. Is a certified copy of the independent letters recorded with the sale/deed? If no, STOP.
- f. Is there an arm's length sale to third party for FMV? If no or there is a donation, quitclaim or self-dealing, STOP.

IV. Small Succession Affidavit

- a. For Louisiana-domiciled decedents:
 - i. Was the gross value of the decedent's estate less than \$125,000 at death?
 1. If yes, proceed.
 2. If no, did the decedent die 20+ years before filing the affidavit?
 - a. If yes, proceed.

- b. If no, STOP.
- ii. Did decedent die intestate? If no, STOP.
- iii. Does the affidavit contain all of the following? If no, STOP.
 - 1. Date of death and domicile of decedent
 - 2. Statement that decedent died intestate
 - 3. Marital status of decedent, location of last residence of decedent, name and address of surviving spouse, if any
 - 4. Names and addresses of heirs and their relationships to the decedent, including sufficient facts to establish (all descendants and dates of death if applicable, or if none, parents and all siblings and their dates of death if applicable).
 - 5. Statement that an heir not signing the affidavit (a) cannot be located after the exercise of reasonable diligence, or (b) was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object
 - 6. Full legal description of property with identification as community or separate
 - 7. Value of each item of property and aggregate value of all property at date of death
 - 8. A statement describing the respective interests in the property which each heir has inherited and whether a legal usufruct of the surviving spouse attaches to the property
 - 9. An affirmation that, by signing the affidavit, the affiants, if heirs, have accepted the succession of the deceased and swear under penalty of perjury that the information contained in the affidavit is true, correct and complete to the best of their knowledge, information, and belief.
- iv. Is the affidavit signed by the surviving spouse and at least one heir or, if no surviving spouse, by at least two heirs or, if no surviving spouse and only one heir, by one heir and one other person with actual knowledge? If no, STOP.
- b. For non-Louisiana domiciled decedents:
 - i. Was the gross value of the decedent's Louisiana property less than \$125,000 at death? If no, STOP.
 - ii. Did decedent die intestate?
 - 1. If yes, proceed.
 - 2. If no, was decedent's will probated in another state?
 - a. If yes, proceed.
 - b. If no, STOP.
 - iii. If intestate, does the affidavit contain all of the following? If no, STOP.
 - 1. Date of death and domicile of decedent
 - 2. Statement that decedent died intestate or testate

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3. Marital status of decedent, location of last residence of decedent, name and address of surviving spouse, if any
 4. Names and addresses of heirs and relationships to the decedent, including sufficient facts to establish (all descendants and dates of death if applicable, or if none, parents and all siblings and their dates of death if applicable).
 5. Statement that an heir not signing the affidavit (a) cannot be located after the exercise of reasonable diligence, or (b) was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object
 6. Full legal description of property with identification as community or separate
 7. Value of each item of property and aggregate value of all property at date of death
 8. A statement describing the respective interests in the property which each heir has inherited and whether a legal usufruct of the surviving spouse attaches to the property
 9. An affirmation that, by signing the affidavit, the affiants, if heirs, have accepted the succession of the deceased and swear under penalty of perjury that the information contained in the affidavit is true, correct and complete to the best of their knowledge, information, and belief.
- iv. If testate, does the affidavit contain all of the following? If no, STOP.
1. Date of death and domicile of decedent
 2. Statement that decedent died intestate or testate
 3. Marital status of decedent, location of last residence of decedent, name and address of surviving spouse, if any
 4. Names and addresses of legal heirs, their relationships to the decedent and sufficient facts to establish (all descendants and dates of death if applicable, or if none, parents and all siblings and their dates of death if applicable) and whether any are forced heirs
 5. Statement that a legatee not signing the affidavit (a) cannot be located after the exercise of reasonable diligence, or (b) was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object
 6. Full legal description of property with identification as community or separate
 7. Value of each item of property and aggregate value of all property at date of death

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8. A statement describing the respective interests in the property which each legatee has inherited.
 9. An affirmation that, by signing the affidavit, the affiants, if legatees, have accepted the succession of the deceased and swear under penalty of perjury that the information contained in the affidavit is true, correct and complete to the best of their knowledge, information, and belief.
 10. Certified copies of the will and signed probate order
- v. Is the affidavit signed by the surviving spouse and at least one heir/legatee or, if no surviving spouse, by at least two heirs/legatees or, if no surviving spouse and only one heir/legatee, by one heir and one other person with actual knowledge? If no, STOP.
 - c. Was the decedent's death certificate attached to the affidavit? If no, STOP.
 - d. Was the affidavit filed in the conveyance records of the parish where the property is located at least 90 days after the decedent's death? If no, STOP.

NOTE:

These checklists are designed as a practice aid and are for internal use only. They are not comprehensive; are subject to changes in the law; and are not a substitute for a title examination or opinion or familiarity with applicable law.